

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CODY LEAVITT,

Petitioner,

Case No. 2:12-cv-00838-MMD-RJJ

ORDER

V.

DWIGHT NEVEN, et al.,

Respondents.

Petitioner, a Nevada prisoner, claims that he filed a petition for a writ of habeas corpus with this court on May 17, 2012. However, while the Clerk of the Court apparently opened an action on that date, the Court has no such petition on file. On July 5, 2012, the Court issued an order stating that petitioner had not filed a petition nor had he filed either an application to proceed *in forma pauperis* or paid the filing fee and directed petitioner to show cause why this action should not be dismissed (dkt. no. 1). On July 10, 2012, petitioner responded and still maintained that he filed the petition on May 17, 2012 (dkt. no. 2). He attached as an exhibit a certified mail receipt showing that he mailed a document to the U.S. District Court, District of Nevada in Las Vegas on May 15, 2012 (dkt. no. 2, at 4-9). He also attached his petition (dkt. no. 2-1).

However, despite petitioner's assertion that he has already been granted *in forma pauperis* status in other actions, he must either pay the filing fee or file an application to proceed *in forma pauperis* in this action. Petitioner is granted thirty (30) days to either

1 pay the \$5.00 filing fee or submit a fully completed application to proceed *in forma*
2 *pauperis*. The Clerk shall retain the petition (dkt. no. 2-1) but shall not file it at this time.¹

3 IT IS THEREFORE ORDERED that petitioner shall have thirty (30) days from the
4 date this order is entered to either (1) pay the \$5.00 filing fee or (2) submit a fully
5 completed application to proceed *in forma pauperis*, including a financial certificate
6 signed by an authorized prison officer showing the status of petitioner's prison account.
7 Failure to take one of these actions within the time allowed may result in dismissal of this
8 action.

9 IT IS FURTHER ORDERED that the Clerk shall SEND to petitioner the approved
10 form for an application to proceed *in forma pauperis*.

11 IT IS FURTHER ORDERED that the Clerk shall SEND to petitioner two copies of
12 this order. If petitioner wishes to pay the five dollar (\$5) filing fee (the first option,
13 above), petitioner must make the necessary arrangements to have one copy of this
14 order, along with a check in the amount of the full \$5 filing fee, sent to the court, by
15 sending a copy of the order with a "brass slip" to Inmate Services for issuance of the
16 check.

17 DATED THIS 2nd day of October 2012.

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19 _____
20 UNITED STATES DISTRICT JUDGE

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28 ¹If petitioner either pays the filing fee or submits an application to proceed *in forma pauperis* that is granted, at that time the Court will direct the Clerk of the Court to file his petition and the file date shall be May 17, 2012.